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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,437	07/03/2001	Robert Harvey Moffett	CH2814 US NA	1926

23906 7590 04/02/2002

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LEGAL PATENT RECORDS CENTER  
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WILMINGTON, DE 19805

EXAMINER

HRUSKOCI, PETER A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 04/02/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/898,437

Applicant(s)

MOFFETT, ROBERT HARVEY

Examiner

Peter A. Hruskoci

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2001.
- 2a) ☐ This action is FINAL.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. Claims 26-28, 31, and 32 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It is submitted that the subject matter recited in the above claims fails to further limit claim 25.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-5, 7-14, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allgulin in view of Chung et al.. Allgulin disclose (see col. 2 line 39 through col. 5 line 12) a process for removing phosphate from an aqueous stream substantially as claimed. The claims differ from Allgulin by reciting the addition of anionic inorganic colloid and a flocculant to the stream. Chung et al. disclose (see col. 2 line 35 through col. 5 line 53) that it is known in the art to add flocculants, anionic inorganic colloids, and metal salts, to an aqueous stream derived from food processing, to aid in coagulating and flocculating precipitated solids from the stream. It would have

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been obvious to one skilled in the art to modify the process of Allgulin by addition of the recited anionic inorganic colloid and flocculant in view of the teachings of Chung et al., to aid in coagulating and flocculating precipitated solids from the stream. The specific pH utilized would have been an obvious matter of process optimization to one skilled in the art, depending on the specific aqueous stream treated and results desired, absent a sufficient showing of unexpected results.

4. Claims 2-4, 6-14, and 25-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allgulin in view of Chung et al. as above, and further in view of Laurent et al.. The claims differ from the references as applied above by reciting that the recovered flocculated mass is used as a nutrient source. Laurent et al. disclose (see col. 2 line 30 through col. 3 line 64) that it is known in the art to utilize a recovered flocculated sludge from a food processing waste streams as animal feed. It would have been obvious to one skilled in the art to modify the references as applied above by utilizing the recited flocculated mass as a nutrient source in view of the teachings of Laurent et al., to aid in disposal of the flocculated mass.

5. Claims 15, 16, 19, 22-24, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayukawa in view of Monick et al.. Ayukawa disclose (see col. 2 line 35 through col. 7 line 65, and Example 32) a process for removing phosphate from an aqueous stream substantially as claimed. The claims differ from Ayukawa by reciting the

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addition of a flocculant and anionic inorganic colloid to the stream. Monick et al. disclose (see col. 3 line 15 through col. 8 line ) that it is known in the art to add flocculants, anionic inorganic colloids, and metal salts, to an aqueous stream containing phosphate, to aid in coagulating and flocculating precipitated solids from the stream. It would have been obvious to one skilled in the art to modify the process of Ayukawa by addition of the recited flocculant and anionic inorganic colloid in view of the teachings of Monick et al., to aid in coagulating and flocculating precipitated solids from the stream. The specific pH utilized would have been an obvious matter of process optimization to one skilled in the art, depending on the specific aqueous stream treated and results desired, absent a sufficient showing of unexpected results.


6. Claims 17, 18, 20-22, and 35-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayukawa in view of Monick et al. as above, and further in view of Laurent et al.. The claims differ from the references as applied above by reciting that the recovered flocculated mass is used as a nutrient source. Laurent et al. disclose (see col. 2 line 30 through col. 3 line 64) that it is known in the art to utilize a recovered flocculated sludge from a food processing waste streams as animal feed. It would have been obvious to one skilled in the art to modify the references as applied above by utilizing the recited flocculated mass as a nutrient source in view of the teachings of Laurent et al., to aid in disposal of the flocculated mass.

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7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (703) 308-3839. The examiner can normally be reached on Monday through Friday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached on (703) 308-1972. The fax phone number for this Group is (703) 872-9310 (non-after finals) and 703-872-9311 after finals.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

  
**Peter A. Hruskoci**  
**Primary Examiner**  
**Art Unit 1724**

P. Hruskoci  
March 25, 2002